

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JOSHUA JAMES ENLOE,

Petitioner,

v.

TOM GAROFFOLO,

Respondent.

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No. 4:18-cv-294-PLC

MEMORANDUM AND ORDER OF TRANSFER

This matter is before the Court upon the motion of petitioner Joshua James Enloe to proceed in forma pauperis. The motion will be provisionally granted. In addition, this case will be transferred to the United States District Court for the Western District of Missouri.

Petitioner, a pretrial detainee at the Boone County Jail, has filed a document that is best construed as a petition for writ of habeas corpus. In the petition, and in subsequently-filed motions, petitioner can be understood to allege that his constitutional rights are being violated in a criminal case currently pending in Boone County, Missouri.¹ He also challenges aspects of other Boone County, Missouri criminal cases that have been disposed.

Jurisdiction over a petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2241 or 28 U.S.C. § 2254 lies either in the district of physical confinement, or in the district in which a custodian against whom the petition is properly directed is present. *McCoy v. United States Board of Parole*, 537 F.2d 962, 964 (8th Cir. 1976). Petitioner is not confined within the Eastern District of Missouri, and there does not appear to be a custodian present in this district

¹*State v. Joshua James Enloe*, Case No. 17BA-CR02719-01 (13th Jud. Cir. Sept. 6, 2017).

over whom this Court would have jurisdiction. Petitioner's custodian can be found in the United States District Court for the Western District of Missouri. *See* 28 U.S.C. § 105(b)(4).

Pursuant to 28 U.S.C. § 1631, a District Court that finds that it lacks jurisdiction to entertain a civil action may, if it is in the interest of justice, transfer such action to any other Court in which such action could have been brought. Upon transfer under § 1631, the action proceeds as if it had been originally filed in the Court to which it is transferred. The Court finds that it would be in the interest of justice to transfer the instant case to the United States District Court for the Western District of Missouri.

Accordingly,

IT IS HEREBY ORDERED that petitioner's motion for leave to proceed in forma pauperis (Docket No. 4) is **PROVISIONALLY GRANTED**, subject to modification by the United States District Court for the Western District of Missouri.

IT IS FURTHER ORDERED that this action shall be **TRANSFERRED** to the United States District Court for the Western District of Missouri.

Dated this 2nd day of March, 2018.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE